

1 the Jan Hutchinson declarations --

2 JUDGE STEINBERG: Both of them?

3 MS. SCHMELTZER: Both of them. And the Otis Woodard  
4 declarations. And we would be willing not to -- to waive our  
5 motion asking for documents concerning those individuals.  
6 However, with respect to Mr. Woodard and Ms. Hutchinson, we  
7 have a very limited amount of surrebuttal that we would like  
8 to put in for existing witnesses who are here, namely Mr.  
9 Stortz and Mr. Devantier. We can either do that with their  
10 cross-examination or after their cross-examination or after  
11 everyone's finished, after Marcia Cranberg is finished,  
12 because they'll still be here and just do it at that time.  
13 It's a very limited amount.

14 MR. HONIG: The difficulty I have with that, Your  
15 Honor, is that I, these were presented in the anticipation  
16 that the witnesses would testify and would thus be in the  
17 position to provide plain old rebuttal to what was said about  
18 them by witnesses who will have had, who will have reviewed  
19 their statements. And that was what we were going to St.  
20 Louis for. Now if something is said about them, will I be  
21 able to now call them and have them respond as they would have  
22 without this, this agreement to have it come in? And it may  
23 be a moot point.

24 JUDGE STEINBERG: Mr. Zauner.

25 MR. ZAUNER: Yeah, one second.

1 JUDGE STEINBERG: Yeah, let me -- okay. I'll be  
2 quiet. As hard as that is sometimes.

3 (Asides.)

4 MR. ZAUNER: I think, I think, Your Honor, that,  
5 that we're anticipating something that may not occur here.  
6 And that is that there may be something in the surrebuttal  
7 which would then require a response by the NAACP. I think  
8 that the, perhaps the best course of action would be to go  
9 ahead. I think the Church has a right to surrebuttal on, with  
10 regard to the, some of the matters that are raised. And I for  
11 one think the record would benefit by it.

12 If at that point after hearing the surrebuttal the  
13 NAACP then decides that they want to put in some additional  
14 evidence to, to rebut what's in the surrebuttal, then Your  
15 Honor would make a ruling based upon that showing at that  
16 time. But I think right now it's speculative to try to  
17 anticipate whether that would even occur.

18 JUDGE STEINBERG: Okay. Let me, let me say this.  
19 Surrebuttal is something that's within my discretion. I think  
20 that this is an appropriate situation to allow surrebuttal.  
21 This case is an appropriate one to allow surrebuttal. In  
22 other cases I haven't, because I didn't think it was  
23 appropriate, useful. It would be a waste of time.

24 I've never allowed sur-surrebuttal if that's what  
25 you call it. I don't even know what -- after you, you have

1 direct case, rebuttal, surrebuttal. And you know, we have a  
2 third-year law student who's much more up to now on this stuff  
3 than, than I am. The only name I know for it is sur-  
4 surrebuttal, and I don't even know if that's right. But  
5 everybody knows what I'm talking about. I've never allowed  
6 that. And -- because I think then we can get to sur-sur-sur  
7 and sur-sur-sur and, you know, we're getting into, into what  
8 do they call exponents, little Xs with numbers on top.

9 But let me tell you what I'm, what I'm going to do.  
10 I -- when I, I read Mr. Stortz's testimony. I read Reverend  
11 Devantier's testimony. If I'm, if I'm wrong, I'm sure someone  
12 will correct me. But Mr. Stortz never mentions either Jan  
13 Hutchinson or Otis Woodard in the direct testimony. Otis  
14 Woodard comes up in -- his name comes up in the opposition to  
15 petition to deny which is an attachment to Mr. Stortz's direct  
16 testimony. And it's in a pleading not drafted by either  
17 Reverend Devantier or Mr. Stortz. At least, at least I don't  
18 think it was. Same thing for Reverend Devantier. I don't  
19 think his testimony mentions either Jan Hutchinson or Otis  
20 Woodard. Am I, am I correct?

21 MS. SCHMELTZER: You're correct.

22 JUDGE STEINBERG: So I don't think it would be --  
23 since their direct testimony doesn't mention it, I don't  
24 anticipate that there will be any cross-examination on Jan  
25 Hutchinson and Otis Woodard, cross-examination of Mr. Stortz

1 and Reverend Devantier on Jan Hutchinson and Otis Woodard. So  
2 I don't think any new stuff will come up in cross-examination.

3           What I want to do is we will make a delineation. We  
4 will put Mr. Stortz on the witness stand, and we will complete  
5 his cross-examination, we will complete his redirect  
6 examination. Then I will make an announcement, this is  
7 surrebuttal. And we will start, and then that will be  
8 surrebuttal. And you can -- Mrs. Schmeltzer can ask questions  
9 on surrebuttal. You and Mr. Zauner can cross. And that way  
10 we have a delineation.

11           I would prefer to do, I would prefer to do all of  
12 Mr. Stortz at one time and all of Reverend Devantier at one  
13 time. But if you think it would be more efficient or more  
14 logical or whatever to finish up all of direct and all of  
15 cross and then, and then say okay, now everything we do from  
16 here on in is surrebuttal, we can do that Friday.

17           And then -- and let me just say, you know, this will  
18 be oral. I presume it will be fairly limited. You may have  
19 time to prepare the cross after you hear the direct.

20           MR. HONIG: Here's the difficulty, Your Honor. The  
21 effect that that has is that if on surrebuttal material which  
22 would normally if the witness were testifying live get in the  
23 record through cross-examination going for example to what  
24 motives they might allegedly have had and so forth, their  
25 competence and so on. If it -- if the witnesses were

1 | testifying live, that would be a subject of proper cross-  
2 | examination. But then I would have a chance to do redirect so  
3 | that the witness could say well, that wasn't my motive and so  
4 | on. But --

5 | JUDGE STEINBERG: Okay. Well, let me interrupt you.

6 | MR. HONIG: Yeah.

7 | JUDGE STEINBERG: Not necessarily. Because you're  
8 | dealing with attorneys here who have said we don't want to  
9 | cross-examine these people. You can't make them cross-  
10 | examine. Mrs. Schmeltzer's made a determination that the  
11 | Church is going to live with, with respect to Ms. Hutchinson,  
12 | we're going to live with Exhibits 7 and 8. We're not going to  
13 | cross-examine her. We're not going to give her an opportunity  
14 | to answer our questions, and we're not going to give you, Mr.  
15 | Honig, an opportunity to redirect and clean up whatever mess  
16 | Mrs. Schmeltzer has made. And I, and I use that term mess  
17 | professionally.

18 | MR. HONIG: Yeah.

19 | JUDGE STEINBERG: Same thing with Mr. Woodard. The  
20 | Church has made, made a determination we're going to live with  
21 | Exhibit 11. We don't want to put Mr. Woodard on and we don't,  
22 | and cross-examine him and by not putting him, by not cross-  
23 | examining him, we've made a determination that we're not going  
24 | to give Mr. Honig an opportunity to clean up the mess that  
25 | they've made out of Mr. Woodard's testimony. So you know, you

1 can't make them cross-examine.

2 MR. HONIG: Right.

3 JUDGE STEINBERG: So if they say we're not going to  
4 cross-examine, but we're going to present surrebuttal, that's  
5 what they're doing.

6 MR. HONIG: But my point is that --

7 JUDGE STEINBERG: And you don't have an opportunity  
8 to clean up the mess because there's no sur-surrebuttal.

9 MR. HONIG: But my point is that if the, the -- if  
10 we had -- if they were going to be testifying live and let's  
11 suppose Mr. Stortz takes -- is he here?

12 JUDGE STEINBERG: No.

13 MR. HONIG: Let's suppose Mr. Stortz takes the stand  
14 and says Jan Hutchinson is a disgruntled employee. And  
15 further she's not a person of good character, and she can't be  
16 believed. Well, when she testifies, she would have a chance  
17 to rebut that. Because that's usually --

18 JUDGE STEINBERG: Yeah, but the point is she's  
19 not --

20 UNIDENTIFIED SPEAKER: She hasn't testified --

21 JUDGE STEINBERG: -- the point is she's not  
22 testifying.

23 MR. HONIG: But no. But I'm -- but even if she  
24 weren't testifying and that were said, I think I would have a  
25 chance to get her in de novo and --

1 JUDGE STEINBERG: No, I don't think so. You -- no,  
2 you wouldn't. Because that's sur-surrebuttal. Now what I'll  
3 do is as I said after the direct, after the direct surrebuttal  
4 examination. I've got to keep track of this in my head. It  
5 gets difficult, the little surs. And I'll give you an  
6 opportunity to prepare for cross-examination. And if during  
7 the course of that preparation you want to confer with Jan  
8 Hutchinson or Otis Woodard or anyone else, you have an  
9 opportunity to do it. So you -- and, and I think that's as  
10 far as, as far as I can go.

11 They basically put you in a box. If they don't  
12 want -- I can't say to Mrs. Schmeltzer and Mr. Zauner you must  
13 cross-examine these witnesses. That is their, that is their  
14 choice. And for whatever reason, they apparently have chosen  
15 not to do that. And that's the way I'm going to rule.

16 Now the only question I have is, is -- well, I, I  
17 frankly think it would be better to, to take the direct cases,  
18 cross-examine, finish all the direct cases, and then I can say  
19 to Mrs. Schmeltzer does this complete your direct case. And  
20 she'll say yes. And then I'll say commence your surrebuttal  
21 or your whatever case. And then we can proceed from there.

22 MR. HONIG: The effect of it though is that a person  
23 could have their character attacked and not have a right to  
24 respond personally. I think the fundamental due process  
25 rights accorded to witnesses, no matter how pleasant the

1 | tactics were to put, to put the NAACP in that box, the result  
2 | is one that's fundamentally unfair because a witness will be,  
3 | will, will have, will come before the Commission, have  
4 | evidence presented, it's written evidence and, and not be able  
5 | to say no, I should be able to stand up and defend my  
6 | character. I don't think a witness --

7 | JUDGE STEINBERG: Well --

8 | MR. HONIG: -- puts themselves in that position --

9 | JUDGE STEINBERG: Well, let me just say that's the  
10 | situation that all witnesses are put in, that all counsel are  
11 | put in by the person that has the last word. If you go to  
12 | court, you've got the summary in front of the jury at the end  
13 | of the case. Somebody starts it. Somebody finishes it.  
14 | Whoever finishes it has the last word. And the person that  
15 | didn't finish it always wants the last word.

16 | Now if I say okay, we're going to do this. Then we  
17 | can do this and this -- where do we stop? We'll be here all  
18 | summer.

19 | But anyway, does anybody else want to comment on it?

20 | MR. ZAUNER: No, I think Your Honor's ruling is  
21 | correct.

22 | MS. SCHMELTZER: I agree with Your Honor.

23 | MR. HONIG: I, I do want to comment on it, because I  
24 | think the point is fundamental.

25 | JUDGE STEINBERG: Well, I think you just commented



1 on it several times. But this is the, this is the last, last  
2 time you're going to comment --

3 MR. HONIG: I agree --

4 JUDGE STEINBERG: -- on this.

5 MR. HONIG: -- that someone has to have the last  
6 word. The point is that when a person's character is, is  
7 attacked, she is entitled not necessarily to the last word but  
8 to a word. And, and the outcome of this is that she won't  
9 have or Eddie Woodard won't have an opportunity to have any  
10 words in response to what could be an attack on their  
11 character which would be unfair to come in without that  
12 person. Not me on the phone asking a question, that person  
13 saying it's not true. And I don't care --

14 MR. ZAUNER: Your Honor, what he --

15 MR. HONIG: -- if there's another word after that.

16 MR. ZAUNER: Your Honor, what he's really asking for  
17 is sur-surrebuttal which you have said you will not allow.  
18 The fact is in an ordinary proceeding what happens is rebuttal  
19 is put on. And that in this case would include I presume if  
20 we were doing live testimony the live testimony of Jan  
21 Hutchinson. She'd be sworn, she'd testify, she'd leave the  
22 stand. And that would be the end of the rebuttal case.

23 Then the Church would put on its surrebuttal, and  
24 whatever would be said would be said, and that would conclude  
25 the case. Mrs. Hutchinson would -- or Ms. Hutchinson would

1 not be given the opportunity to then come back and re-sur-  
2 surrebuttal. I mean this could go on forever in that  
3 instance.

4 JUDGE STEINBERG: Yeah, you don't even know what to  
5 call -- you don't know what to call it either. Let me, let me  
6 ask Mr. Williams, do you know what to call it?

7 MR. WILLIAMS: No.

8 JUDGE STEINBERG: Okay. You didn't get that far  
9 yet, huh?

10 MR. WILLIAMS: Not --

11 JUDGE STEINBERG: That's next semester. Okay.  
12 Okay, that's my ruling. And so you're not, you're not  
13 noticing -- you're not going to cross-examine Jan Hutchinson,  
14 and you're not going to cross-examine Otis Woodard. Is that  
15 correct?

16 MS. SCHMELTZER: That's correct.

17 UNIDENTIFIED SPEAKER: Stipulated the testimony --

18 MS. SCHMELTZER: So we don't need to go --

19 JUDGE STEINBERG: So you don't need -- so you  
20 withdraw your motion to compel.

21 MS. SCHMELTZER: That's right. We withdraw the  
22 motion to compel.

23 JUDGE STEINBERG: Okay. Motion to compel is  
24 withdrawn. So you don't have to give me anything.

25 MR. HONIG: Except that if there's an attack made on

1 | their character, I think I, I would like to be in the position  
2 | to submit in a day or two an offer of proof as a statement  
3 | from them which you can accept or reject.

4 |           JUDGE STEINBERG: That's fine. That's fine. You  
5 | can, you know, you can -- at the end of the surrebuttal, you  
6 | can again make a request and, and state your reasons and, and  
7 | you know, perhaps we'll revisit it. Perhaps we won't. But  
8 | certainly you're, you're free to submit additional exhibits,  
9 | offers of proof or whatever. That's, that's fine. That's  
10 | perfectly fine. I don't have any problem with that.

11 |           Okay. So now it's no motion to compel. No cross.  
12 | I think the only thing we've got left is, is the Lauher notes  
13 | that we're still looking for.

14 |           MS. SCHMELTZER: I think we've, I already --

15 |           JUDGE STEINBERG: Yeah, that we don't have. But if  
16 | you do get them, you'll turn them over. Why don't we leave it  
17 | like that. They have been unable to find them. If they --  
18 | they will continue looking. And if they do find them, they  
19 | will turn them over. Is that correct, Mrs. Schmeltzer?

20 |           MS. SCHMELTZER: Yes.

21 |           JUDGE STEINBERG: Okay.

22 |           MR. HONIG: I think there are a couple of other  
23 | preliminary matters from my notes.

24 |           JUDGE STEINBERG: Is there anything that can be put  
25 | off so that we can start with Mr. Stortz and -- because he's

1 going to take a long time.

2 MR. HONIG: Well, these are very quick.

3 JUDGE STEINBERG: Okay.

4 MR. HONIG: I, I want to just get everything cleaned  
5 up.

6 JUDGE STEINBERG: So we're not going to St. Louis  
7 basically.

8 MR. HONIG: First, I owe you another page of, of a  
9 missing letter from Jan Hutchinson --

10 JUDGE STEINBERG: Right.

11 MR. HONIG: -- and I couldn't reach Jan Hutchinson.  
12 But I will try again and see if I can get that.

13 JUDGE STEINBERG: Okay.

14 MR. HONIG: Second, I'm -- I need a subpoena. I --  
15 but I guess that's moot too then.

16 JUDGE STEINBERG: Right.

17 MR. HONIG: All right. Then I don't need --

18 JUDGE STEINBERG: I, I -- right. I got that, I got,  
19 I got that in my office. And you know, one of my items was --  
20 one additional item was with respect to Mr. Miller but that's  
21 moot now.

22 MR. HONIG: Okay.

23 JUDGE STEINBERG: You want it back?

24 MR. HONIG: No.

25 JUDGE STEINBERG: Okay.

1 MR. HONIG: And I guess that's it. I would like to  
2 know when Reverend Clancy, is that right, is expected.

3 MS. SCHMELTZER: I think I said he's going to be  
4 arriving today about noon. But we're willing to delay him  
5 until tomorrow morning.

6 JUDGE STEINBERG: We'll do, we'll do him -- if Mr.  
7 Stortz finishes today, we'll do him first thing tomorrow  
8 morning. If Mr. Stortz finishes at 2 o'clock today, we'll do  
9 him this afternoon. But I, you know, frankly given the, given  
10 the length of his testimony and the significance of it I  
11 don't, I don't see -- I think he's going to be here most of  
12 the day.

13 UNIDENTIFIED SPEAKER: Great.

14 JUDGE STEINBERG: And so, so it will -- he'll be  
15 presented immediately after Mr. Stortz, unless it's too late  
16 today to do it.

17 MS. SCHMELTZER: I guess the only thing I don't know  
18 is how late he can stay tomorrow. I don't know his  
19 availability for all of tomorrow. It might be necessary to  
20 take him first thing tomorrow morning.

21 JUDGE STEINBERG: Would he --

22 MR. HONIG: I'm ready to take him anytime.

23 JUDGE STEINBERG: Okay.

24 MR. ZAUNER: Your Honor, the Bureau has two quick  
25 matters. One is the petition to enlarge that was, and for

1 injunctive relief that was filed on June 20th was hand served.  
2 And I believe the response date therefore is June 30th. We've  
3 all been here in the hearing room this week. And I think, I  
4 think it might be an idea if Your Honor would set a date for a  
5 response to that petition to enlarge perhaps after the 20th.  
6 After the 30th I mean.

7 JUDGE STEINBERG: My feeling about that is if you  
8 need an extension, I'll grant an extension. Come up with a  
9 date and that's agreeable to, to Mrs. Schmeltzer and Mr.  
10 Honig. And you want to do it, you know, I don't have my  
11 calendar with me.

12 MR. ZAUNER: You want to do it for July 8th? That  
13 was what I was thinking about. It's a Friday.

14 MS. SCHMELTZER: Well, I guess -- we just want to  
15 make sure the record is closed if that matter is still -- I  
16 mean I don't know whether it will affect the closing of the  
17 record --

18 JUDGE STEINBERG: Oh. Well, no. Let me tell you  
19 what I plan. I -- when we finish the hearing, I will close  
20 the record. But -- I'll close the record. I'm going to set a  
21 date for findings and reply findings. And you all could help  
22 me by agreeing on dates for that. That way I won't, you know,  
23 that's something else for you to do is to agree on dates for  
24 findings and reply findings. If not, I'll have to set them.

25 But I'll close the record, set dates for findings

1 and reply findings. If the issues are enlarged, I'll reopen  
2 the record at the time that I enlarge the issues and we can,  
3 and set a date for conference, or we could set procedural  
4 dates for that. I don't think I'm going to -- assuming we set  
5 a date for findings and I do enlarge the issues, we'll still  
6 have the findings submitted on that date, because I don't want  
7 to be under any pressure to get a ruling out one way or the  
8 other before findings are due. I put myself in that box once.  
9 And it was -- and it basically given the workload we had then  
10 was very difficult to, to do what I had to do without  
11 prejudicing the parties' work on their findings.

12 But basically it was I think Vancouver or something.  
13 Everything wasn't working on them waiting for me to rule on  
14 about 10 petitions. Because I said I'd put the date off if I  
15 enlarged the issues. So nobody did anything. And, and I was  
16 told that nobody was doing anything, just waiting because they  
17 anticipated issues.

18 But I, you know, basically we'll set findings in  
19 the -- that's set dates for findings and conclusions. And  
20 they'll be due on those dates or, or extended dates even if I  
21 enlarge the issues. That way you get it over with.

22 MR. HONIG: So that I can understand this, then  
23 there would be round one findings and conclusions.

24 JUDGE STEINBERG: You got it.

25 MR. HONIG: And round two findings and conclusions.

1 JUDGE STEINBERG: Phase I, phase II. You can call  
2 it whatever you want.

3 Okay. So you all come up with a date. And I'll say  
4 it's extended to that date.

5 MR. ZAUNER: Fine.

6 JUDGE STEINBERG: I won't issue an order. I'll do  
7 it orally. How about that?

8 Okay. Ready for Mr. Stortz? Although it's almost  
9 time for a break.

10 (Off the record.)

11 JUDGE STEINBERG: Okay, we're on the record. Why  
12 don't you state that again.

13 MS. SCHMELTZER: The Church calls Dennis Stortz to  
14 the witness stand.

15 JUDGE STEINBERG: Okay. Mr. Stortz, would you raise  
16 your right hand please?  
17 Whereupon,

18 DENNIS STORTZ  
19 having been first duly sworn, was called as a witness herein  
20 and was examined and testified as follows:

21 JUDGE STEINBERG: Okay, please be seated. And if  
22 you would state your name, address and phone number for the  
23 record.

24 WITNESS: My name is Dennis Stortz. My business  
25 address.



1 JUDGE STEINBERG: Either one.

2 WITNESS: Is KFTO Radio, 85 Founders Lane, St.  
3 Louis, Missouri 63105.

4 MS. SCHMELTZER: Your Honor, I have provided the  
5 reporter with an original and one copy of what we would like  
6 to have marked for identification as Church Exhibit 4. It's  
7 the testimony of Dennis Stortz. Consists of 26 pages of  
8 testimony with an attached declaration and 17 attachments.

9 JUDGE STEINBERG: The document described will be  
10 marked for identification as Church Exhibit 4.

11 (Whereupon, the document referred to  
12 as Church Exhibit No. 4 was marked  
13 for identification and introduced  
14 into evidence.)

15 DIRECT EXAMINATION

16 BY MS. SCHMELTZER:

17 Q Mr. Stortz, do you have a copy of Church Exhibit 4  
18 in front of you?

19 A Yes.

20 Q Do you have any changes or corrections --

21 A No.

22 Q Is your testimony true and correct to the best of  
23 your knowledge, information and belief?

24 A Yes.

25 MS. SCHMELTZER: Your Honor, I would move the

1 receipt of what's been marked for identification as Church  
2 Exhibit 4.

3 JUDGE STEINBERG: Mr. Honig?

4 MR. HONIG: Before going through it, may I have voir  
5 dire?

6 JUDGE STEINBERG: Yes.

7 VOIR DIRE

8 BY MR. HONIG:

9 Q Mr. Stortz, who drafted your testimony?

10 A Our attorneys from Fisher, Wayland.

11 Q Did you do -- did you out of your own writing  
12 prepare any of this in draft?

13 A No.

14 Q Are you aware that there was an interview between my  
15 clerk, Michael Blanton, and Tom Lauher on May 23rd, 1994?

16 A No.

17 Q Pardon me?

18 A No. Was I aware at the time?

19 Q No, are you aware now?

20 A Yes.

21 Q Okay. When did you become aware of that?

22 MS. SCHMELTZER: Your Honor, there's a motion to  
23 enlarge that's a public document.

24 MR. HONIG: I know. Your, Your Honor, this is --

25 JUDGE STEINBERG: I'll, I'll allow the question.

1 MR. HONIG: -- leading, leading the witness --

2 JUDGE STEINBERG: I'll allow the question.

3 MR. HONIG: Yeah.

4 WITNESS: I became aware of it after it happened.

5 I'm not for sure the exact date when that was.

6 BY MR. HONIG:

7 Q Your testimony was signed on May 31st, 1994, isn't  
8 that right?

9 A Yes.

10 Q And did you become aware of that interview before or  
11 after May 31st, 1994?

12 A I believe I was aware that they had, that your  
13 associate had interviewed Mr. Lauher before then, yes.

14 Q And how did you become aware of, of that?

15 A I believe I was told that by some associates in the  
16 law firm.

17 Q Who specifically?

18 A I can't recall that. I don't know.

19 Q You don't know which, which lawyer told you?

20 A No.

21 Q Man or woman? Trying to refresh your memory.

22 A I, I don't know, Mr. Honig. I, I can't recall.

23 I've spoken to all of them frequently.

24 Q Did Mr. Lauher also tell you that he had had this  
25 interview?

1 A Not until I talked to him Monday.

2 Q Monday of, of this week which would be June 20th.

3 A Correct.

4 Q Okay. And were those the only two occasions when  
5 someone discussed that interview with you?

6 JUDGE STEINBERG: I, I don't like the word  
7 discussed. Because there wasn't --

8 MR. HONIG: I'm sorry. Is there some --

9 JUDGE STEINBERG: Just rephrase --

10 MR. HONIG: -- mention of that interview to you?

11 Thank you.

12 WITNESS: As far as I recall.

13 BY MR. HONIG:

14 Q Now let's take the, the first mention where one of  
15 the attorneys talked. Did the attorney tell you what was said  
16 between Mr. Lauher and Mr. Blanton or anything that was said  
17 between them?

18 A No.

19 Q Only that it happened.

20 A Yes.

21 Q Did Mr. Lauher tell you anything that was said  
22 between he and Mr. Blanton?

23 A Nothing of substance, no.

24 Q Well, what did he tell you?

25 A He told me that an interview took place. It was at

1 St. Louis University Law School I think. And that he said  
2 that he tape recorded the interview.

3 Q Did he tell you that he made a transcript of that  
4 tape recording?

5 A No.

6 Q Have you heard the tape?

7 A No.

8 Q Do you have the tape?

9 A No.

10 Q And, and you have not seen the transcript either.

11 A That's correct. I have not.

12 Q Did he tell you whether anyone else had either seen  
13 the, the transcript or heard the tape?

14 A He did not.

15 Q Did you ask him?

16 A No.

17 Q Were you aware before Mr. Lauher visited with Mr.  
18 Blanton that he was going to do that?

19 MS. SCHMELTZER: I'm going to object, Your Honor.  
20 Because this is totally irrelevant.

21 JUDGE STEINBERG: I, I think we've gotten enough  
22 information on this matter to, to be able to evaluate Exhibit  
23 4, let me put it that way. And so I don't really see the  
24 point in the question that you just asked.

25 MR. HONIG: Well, the question will be in the record

1 for what it says. Did you -- between February 1st, 1994 and  
2 today -- let me place before you a copy of Judge's Exhibit 2,  
3 is that what it is?

4 JUDGE STEINBERG: That's your exhibits.

5 MR. HONIG: Yeah, I haven't marked it. It's  
6 actually page 1 of Judge's Exhibit 2 which is an index to  
7 our -- it says index to NAACP direct case exhibits, so it's  
8 really rebuttal case exhibits.

9 And if you would look at the names, it says  
10 declaration of so and so for each of those people. Between  
11 February 1st, 1994 --

12 JUDGE STEINBERG: Four you said.

13 MR. HONIG: -- and, and today, have you had a  
14 conversation with any of those persons?

15 MS. SCHMELTZER: Objection, Your Honor. It has  
16 nothing to do with voir dire on Mr. Stortz's exhibit.

17 MR. HONIG: Already had a ruling that I can ask  
18 that, that question of the witness.

19 MS. SCHMELTZER: And what difference does it make if  
20 he did?

21 JUDGE STEINBERG: Well, it's, it's true. And I, I  
22 allowed it before. But I can't remember why. Might have,  
23 might have been relevant to, to that individual's testimony.  
24 But I don't --

25 MS. SCHMELTZER: I think it was with respect to Mr.

1 Lauher --

2 JUDGE STEINBERG: I don't, I don't see what --

3 MR. HONIG: Well, I think the ruling was that,

4 that --

5 JUDGE STEINBERG: I forgot what the -- yeah, I --

6 MR. HONIG: It was the --

7 JUDGE STEINBERG: -- well, I know, I know what the

8 ruling --

9 MR. HONIG: -- and, and that was the one thing that

10 I was allowed to do was to ask the witnesses did they have

11 these conversations.

12 MS. SCHMELTZER: What does that have to do with voir

13 dire -- Mr. Stortz has --

14 JUDGE STEINBERG: Yeah, if you want -- yeah. I, I

15 mean I don't -- I honestly don't remember. I remember the

16 ruling that I allowed you to show the witness that page and it

17 was with Mr. Lauher and read the names and ask the question.

18 MR. HONIG: We having reconsideration of that ruling

19 now?

20 JUDGE STEINBERG: We're not having -- this is a

21 different witness. This is a different -- and I, I don't --

22 without a transcript here I don't know, I don't know why I did

23 it. I don't know what the arguments were then. Just where

24 are you going with this?

25 MR. HONIG: My --

1 JUDGE STEINBERG: On voir dire.

2 MR. HONIG: My, my recollection is that because  
3 there, there was a request for injunctive relief as to  
4 contacts within witnesses. And I believe one of the contacts  
5 was by this particular witness is why I'm asking this question  
6 of everybody --

7 JUDGE STEINBERG: Okay --

8 MR. HONIG: But I can go into it on cross.

9 JUDGE STEINBERG: -- injunctive relief?

10 MS. SCHMELTZER: That motion was denied. That's  
11 part of this pending motion to enlarge. And he had a motion  
12 for injunctive relief. You denied the motion for injunctive  
13 relief --

14 JUDGE STEINBERG: The motion for injunctive relief  
15 was to preclude -- if I'm remembering this wrong, the  
16 transcript will prove that I'm, I'm remembering this wrong.  
17 But the request for injunctive relief was to preclude the  
18 Church attorneys or, or agents from contacting any of these 11  
19 people. Is that correct?

20 MR. HONIG: And I wanted to find out --

21 JUDGE STEINBERG: No, no, no. Is that correct?  
22 That's, that's --

23 MR. HONIG: That was --

24 JUDGE STEINBERG: A request for injunctive relief  
25 has nothing to do with wanting to find out. That's -- you



1 want -- you asked me for a ruling.

2 MR. HONIG: Yeah.

3 JUDGE STEINBERG: And I said no. I said they can  
4 contact anybody they want to, because they have to prepare.  
5 Now what this has to do with that is beyond me. Now if, if  
6 you -- yes, beyond me. And, and in addition, several of, of  
7 the exhibits have been rejected, and there's no cross of the  
8 remaining people. So it doesn't matter that Mr. Lauher  
9 contacted these people.

10 MS. SCHMELTZER: You mean Mr. Stortz.

11 JUDGE STEINBERG: Mr. Stortz. Pardon me. Even if  
12 he did.

13 MR. HONIG: All right. Well, the question will go  
14 in and, and --

15 JUDGE STEINBERG: Okay, so I guess that's a long-  
16 winded --

17 MR. HONIG: I'm not going to withdraw the question.  
18 It will just be --

19 JUDGE STEINBERG: Oh, yes. Yeah, the question is  
20 in. An objection was made. We had argument. And I guess the  
21 objection is sustained.

22 MR. HONIG: All right. Let me go through then the,  
23 the exhibit, because there are a number of sentences that I'd  
24 like either stricken or, or to have rulings as to the  
25 appropriate use of the statements.